IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 24TH NOVEMBER 2006 / 3RD AGRAHAYANA 1928

Crl.MC.No. 3889 of 2006()

CC.1325/2002 of JUDL.MAGISTRATE OF FIRST CLASS, PARAVUR

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PETITIONER:

BIJU VARGHESE, CHIEF EDITER,
MANGALAM DAILY,
MANGALAM PUBLICATIONS INDIA PVT. LTD.,
S.H. MOUNT, KOTTAYAM.

BY ADV. SRI.GEORGEKUTTY MATHEW

RESPONDENTS:

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1. M.O.JOHN, S/O. OUSEPH,
MANALIPARAMBIL HOUSE,
ELOOR SOUTH, PASRAUR TALUK,
ERNAKULAM DISTRICT.

2. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/11/2006 , THE COURT ON THE SAME PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.NO.3889 OF 2006

Dated this the 24th day of November, 2006.

ORDER

The petitioner is a person who has received summons from a criminal court, which is considering the allegation under Section 138 of the N.I Act against the indictee. The summons shows that he is cited as CW2. It conveys that one John is facing indictment under Section 138 of the N.I Act. The summons directs the petitioner to appear before the learned Magistrate at 11 a.m on 07.10.2006. According to the petitioner, the summons was received by him not in time and he has been informed that the case now stands posted to 28.11.2006. Instead of appearing before that court, the petitioner has rushed to this Court with this petition under Section 482 Cr.P.C. He prays that the summons issued against him may be quashed and he may be relieved of the unnecessary burden to appear before the learned Magistrate.

2. What are the grounds ? Except to assert that the petitioner has nothing to say in respect of that prosecution, there is absolutely no ground raised before me which would justify the quashing of the summons issued against the petitioner by the

learned Magistrate. I have no reason now to assume that the discretion under Section 254(2) Cr.P.C (it is said that he is summoned as a defence witness) has been invoked by the learned Magistrate without sufficient reasons. No oblique motive is alleged against anyone. It is the case of the petitioner that he does not know either the complainant or the accused. There is thus no allegation of any mala fides. I am certainly of the opinion that the petitioner must appear before the learned Magistrate in obedience to the summons and discharge his duty as a witness.

3. Powers under Section 482 Cr.P.C are not to be invoked casually merely because it is inconvenient for a person to appear before a court. I am certainly not satisfied that this is a fit case where such powers deserve to be invoked.

4. This Crl.M.C is, in these circumstances, dismissed.

R.BASANT
JUDGE

rtr/